

Attachment A: Revisions to the September 10, 2008 Draft (Cover Sheet)

Section	Comment	Response
3.6.1.1.H Purpose Statements (p. 3)	Add solar access and passive solar orientation.	The draft has been revised as requested.
Natural Undisturbed Open Space (NUOS) (numerous references throughout the document)	Change reference from Natural Open Space back to Natural Undisturbed Open Space.	The draft has been revised as requested.
3.6.1.5.D.4.b.3 Slope of Detention and Retention Basins (p. 10)	Investigate how the slope requirement may be reworded to allow greater flexibility while ensuring against “vertical” sided and fenced off detention basins.	<p>The following are two alternatives to the current draft requirement:</p> <p>1. <i>Detention and retention basins should be designed to not require a safety barrier.</i></p> <p>OR</p> <p>2. <i>“Detention and retention basins shall be designed and constructed in compliance with the Stormwater Detention/Retention Manual.</i></p> <p><i>Detention and retention basins shall not contain side slopes greater than 2:1 unless constructed as an underground basin.</i></p> <p><i>Security barriers, where required by the Stormwater Detention/Retention Manual, shall not be constructed of chain-link fencing.”</i></p>

**Attachment A: Proposed Text Amendments to the Flexible Lot Development
(formerly known as Residential Cluster Development)**

SECTION 1. Article 2, Division 8, Section 2.8.1.6.C, Hillside Development Zone (HDZ) is hereby amended to read as follows:

**Land Use Code
Article 2. ZONES
DIVISION 8. OVERLAY ZONES**

2.8.1 HILLSIDE DEVELOPMENT ZONE (HDZ)

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2.8.1.6 FLEXIBLE LOT DEVELOPMENT

- C. *Flexible Lot Development (FLD)*. The purpose of the FLD in the HDZ is to preserve the sloped areas while encouraging development on the flatter portions of a lot or parcel. FLDs must meet the requirements of Section 3.6.1, Flexible Lot Development (FLD), as well as the following criteria. (See *Illustration 2.8.1.6.C*.)
1. All structures must be located outside the three hundred (300) foot protected peak or ridge setback area, and the protected area must be preserved as a natural area as listed in Section 2.8.1.7.
 2. The FLD application may be used for either single-family or multi-family development. In order to apply the FLD, the average cross slope (ACS) of the area to be developed must be less than fifteen (15) percent. This may require excluding steeper slopes as natural areas in order to reduce the ACS of the remaining portion. Such natural areas will be excluded from the ACS calculation but will be included for density calculation. Density is regulated by the underlying zone, based on the entire area.
 3. For property within the hillside development zone (HDZ), sloped areas in excess of 15% with an area greater than or equal to 7,000 square feet shall be delineated and set aside as natural undisturbed open space and designated as common area.

* * *

SECTION 2. Article 2, Division 2, Section 3.2.3.1.F is hereby amended to read as follows:

**LAND USE CODE
ARTICLE 3. DEVELOPMENT REGULATIONS
DIVISION 2. DEVELOPMENT CRITERIA**

3.2.3 PRINCIPAL STRUCTURE

* * *

3.2.3.1 RESIDENTIAL DEVELOPMENT DESIGNATOR

* * *

- F. *Flexible Lot Development (FLD) Density Matrix.* The following regulations apply to FLD projects. Development Alternative A is for standard FLD projects pursuant to Section 3.6.1.2.B.1 (Standard FLD). Development Alternative B is for FLD projects developed using a maximum density option pursuant to Section 3.6.1.2.B.2 (Maximum Density Option).

FLD Designator	Zone	Development Alternative	Site Coverage (Maximum Percentage Allowable)	Allowable Density	Building Height	Perimeter Yard*
FLD-1	SR	A	8	0.25	30'	BB
FLD-2	RX-1	A	33	1.00	30'	BB
FLD-3	RX-2 & SH	A	33	2.25	25'	BB
FLD-4	R-1 & MH-1	A	50	5.14	25'	BB
		B	70	6.25	25'	BB
FLD-5	MH-2	A	62	8.00	25'	BB
		B	75	15.00	25'	BB
FLD-6	R-2	A	62	8.71	25'	BB
		B	75	22.00	25'	BB
FLD-7	R-3	A	70	36.00	40'	CC
		B	75	44.00	40'	CC
FLD-8	O-1, O-2 & O-3	A	75	22.00	25'	BB
FLD-9	C-1	A	75	36.00	25'	CC
FLD-10	C-2 & C-3	A	75	44.00	40'	CC

* * *

SECTION 6. Article 3, Division 6, Section 3.6.1 is hereby amended to read as follows:

Land Use Code
Article III. DEVELOPMENT REGULATIONS
DIVISION 6. DEVELOPMENT INCENTIVES

3.6.1 FLEXIBLE LOT DEVELOPMENT (FLD)

3.6.1.1 Purpose. The purpose of the Flexible Lot Development (FLD) is to provide greater flexibility and creativity in the design of residential development by:

- A. Providing incentives to achieve community goals, such as historic and archaeological preservation, preservation of natural vegetation, development within low-income areas, and infill housing projects.

- B. Implementing the goals and objectives of the General Plan, Area Plans, and Neighborhood Plans.
- C. Providing open space that is usable and includes suitably located active and passive recreational amenities, such as trails, walking paths, picnic areas, and playgrounds.
- D. Providing for visual, and where achievable, physical connections to open space areas on adjacent properties.
- E. Efficiently using land and public facilities by means of a more economical arrangement of buildings, circulation systems, land uses, and utilities.
- F. Preserving to the greatest extent possible existing natural undisturbed open space, environmentally sensitive areas, and landscape features and amenities, such as significant topography, protected peaks and ridges, natural vegetation, washes, riparian areas and floodplains, and integrating such features with structures and other improvements.
- G. Coordinating architectural styles, building forms, and building relationships within the development and with surrounding land development.
- H. Providing high-quality, sustainable development within the city that incorporates “green building” techniques such as water harvesting, solar access, and passive solar orientation.
- I. Mitigating the urban heat island effect by requiring such measures as canopy trees throughout the FLD project and other acceptable mitigation efforts.
- J. Creating incentives for appropriate urban infill development on lots with site constraints.

3.6.1.2 Applicability

- A. The provisions of this Section apply only to residential development as follows:
 - 1. *Standard FLD*. FLD projects other than those utilizing a maximum density option may be developed in the following zones:
 - a. Single-family detached residential development in the SR, SH, RX-1, and RX-2 zones;
 - b. Single-family residential development, attached or detached, in the R-1, MH-1, and MH-2 zones; and
 - c. Single-family attached or detached, and multifamily residential development in the R-2, R-3, O-1, O-2, O-3, C-1, C-2, and C-3 zones.

2. *Maximum Density Option.* FLD projects may be developed to the maximum density permitted by the underlying zoning pursuant to Section 3.6.1.2.B.2 in the following zones:
 - a. Single family residential development, attached or detached, in the R-1, MH-1, MH-2 and R-2 zones; and
 - b. Multi-family residential development in the R-2 and R-3 zones.
- B. *FLD Alternatives.* Residential development is permitted using the FLD provisions under one (1) of the two (2) following alternatives:
1. *Standard FLD – Development Alternative A.* A standard FLD project shall not exceed the density limits for Development Alternative A in 3.2.3.1.F (FLD Project Density Matrix).
 2. *Maximum Density Option – Development Alternative B.* FLD projects that meet at least one (1) of the following development options may develop up to the maximum density shown for the Development Alternative B in Table Section 3.2.3.1.F for the zone.
 - a. *Low Income Housing.* A minimum of ten (10) percent of the project's total number of units or minimum of two (2) units, whichever is greater, are constructed as low-income housing.
 - b. *Housing for the Elderly.* The entire project is designed and constructed only for the elderly. A covenant shall be recorded for the project site stating that the housing is restricted for use by the elderly. Residents of an FLD for the elderly must be at minimum 62 years old.
 - c. *Historic Preservation.* The project includes preservation of a historic site, structure, or landmark or leads to the preservation or scientific study and archaeological documentation of prehistoric or historic buildings or sites, in accordance with the criteria listed in Development Standard 2-10.0. Features eligible for use of this option are those identified in the required archaeological study as meeting the criteria for in Development Standard 2.10.4. A covenant preserving the historical site is required.
 - d. *Additional Functional Open Space.* The project provides at least twenty (20) percent more functional open space than is required by Section 3.6.1.4.D (Functional Open Space Requirements).
 - e. *Additional Open Space Within FLDs Greater than 5 Acres.* The project preserves in a natural state at least fifteen (15) percent more area than is

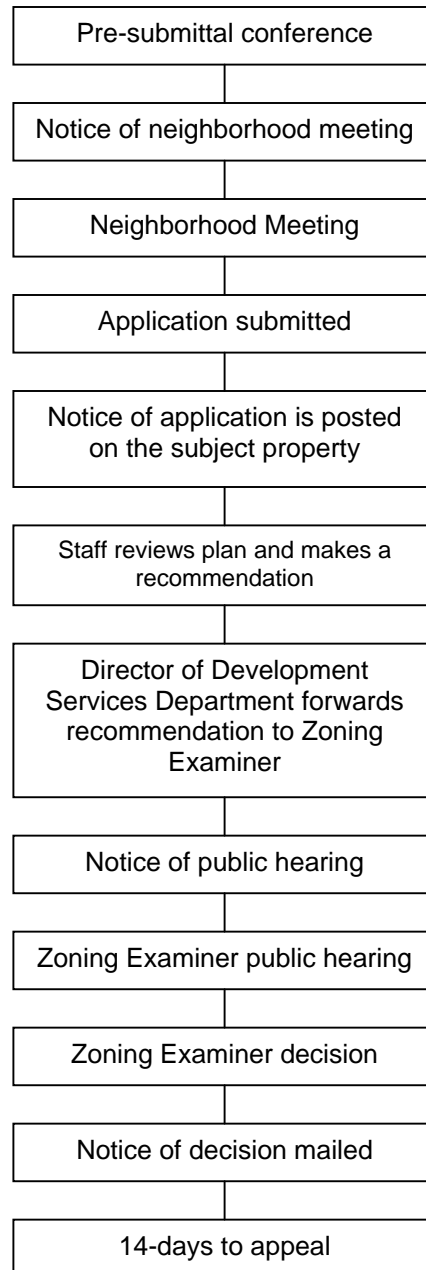
required by other sections of the Tucson Code. These natural features include, but are not limited to, vegetation, washes, and hillsides.

- f. *Proximity to Arterial Street.* The project is located in the City's Central Core (as defined in the City of Tucson's General Plan) and is on a designated arterial street near transit facilities to promote the use of transit and reduce vehicle trips. The project density does not conflict with any applicable area or neighborhood plan. This maximum density option applies only to those portions of the project site within one-quarter (1/4) of a mile of an arterial street.
- g. *Trail or Wildlife Corridor Dedication.* The FLD provides for dedication of trails or wildlife corridors, or both, that connect to offsite trails and wildlife corridors as approved by the Parks and Recreation Department.
- h. *Green Building.* The project is designed and located to comply with all the energy efficiency requirements listed in the Development Standard 2-10.0.

3.6.1.3 FLD Submittal, Review and Approval

- A. The flowcharts provided below are for illustrative purposes only. Refer to Development Compliance Code, Chapter 23A-35 (Flexible Lot Development) for specific procedural requirements and timelines.
- B. *Projects with a Gross Site Area of Five Acres or Less – Preliminary Development Plan.* For FLDs 5 acres or less, a Preliminary Development Plan (PDP) must be submitted, reviewed, and approved in compliance with Development Standard 2-10.0 and Chapter 23A-35 prior to approval of a subdivision plat or development plan.

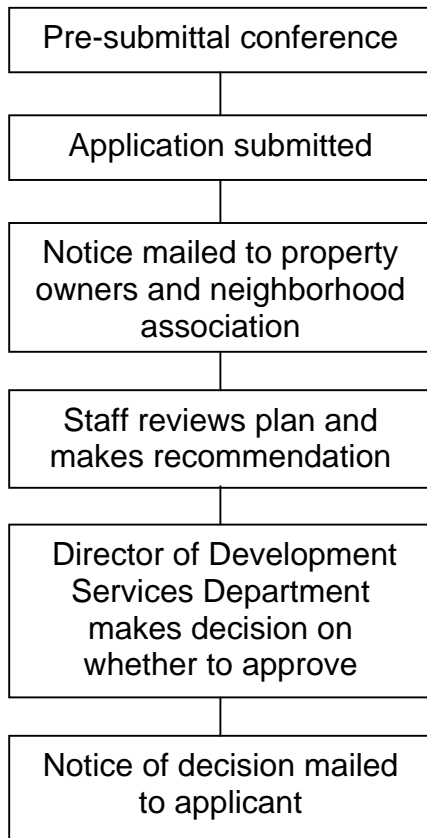
**3.6.1.3.B: Preliminary development plan
procedure for FLDs 5 acres or less**



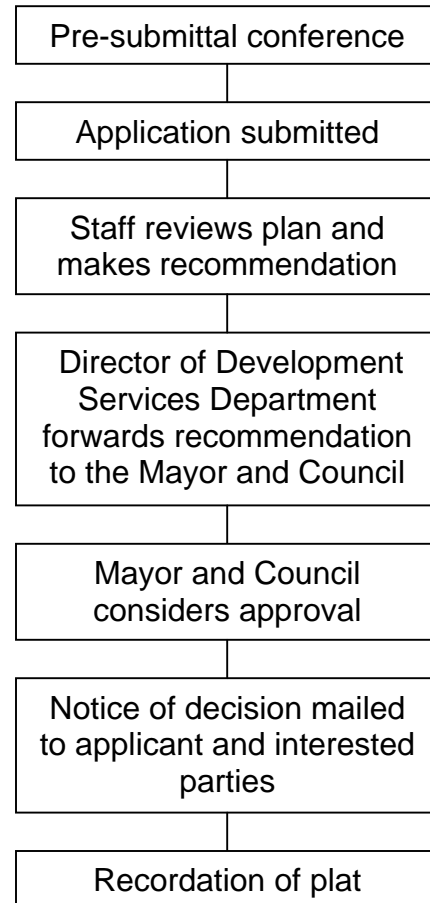
- C. *All FLD Projects – Tentative Plat.* A tentative subdivision plat for an FLD must be prepared, processed, and approved in compliance with Article IV of this Chapter, Chapters 23A-35 (Flexible Lot Development) and Development Standard 2-10.0.

- D. *All FLD Projects – Final Plat.* A final subdivision plat for an FLD must be prepared, processed, and approved in compliance with Article IV of this Chapter, Chapters 23A-35 (Flexible Lot Development) and Development Standard 2-10.0.

**3.6.1.3.C: Tentative plat procedure
for all FLD projects**



**3.6.1.3.D: Final plat procedure for
all FLD projects**



- E. *Development Plan Requirements.* A Development Plan is required only if a subdivision plat is not required. The submittal, review and approval of a Development Plan must comply with Chapter 23A-35 and Development Standard 2-10.0.

3.6.1.4 General Development Criteria

- A. *Compliance with the General Plan and other Applicable Plans.* An FLD must comply with the General Plan and other area and neighborhood plans as applicable.

B. *Applicability of General LUC Requirements.* Except as permitted in this Section 3.6.1, all applicable development and performance criteria of the LUC and the applicable development standards apply to an FLD.

C. *Project Amenities and Site Improvements.*

1. *Single-Phased Construction.* If an FLD is not developed in multiple phases, all amenities and improvements must be completed when no more than fifty percent (50%) of the residential units served by the project amenities and site improvements are constructed.
2. *Multi-Phased Construction.* If an FLD is developed in phases, construction of project amenities and improvements must comply with Section 3.6.1.8 (FLD Phasing Requirements).

D. *Functional Open Space Requirements*

1. *Definition.* Functional open space is an active or passive recreational amenity for use by the residents and guests of a residential development. Examples of functional open space include nature trails; exercise trails; open playgrounds, such as baseball fields and multi-use recreational areas; picnic areas; and facilities, such as swimming pools, tennis courts; and golf courses.

2. *Functional Open Space Area Requirements*

- a. Functional open space shall be provided as shown in the following table:

Project size	Functional Open Space Requirement
5 acres or less	Less than 13 DU/AC* = 109 SF**/unit 13 DU/AC or more = 161 SF/unit
More than 5 acres	269 SF/unit

*DU/AC = Dwelling units per acre

**SF = square feet

- b. Functional open space must be for an active recreational, passive recreational, or scenic purpose.
- c. An FLD shall provide functional open space amenities appropriate for the mix of residents for which the FLD project is designed.
- d. A homeowners' association or management organization must be established by the developer to be responsible for the ownership, permanent care, and maintenance of functional open space areas.

- c. Any portion of the FLD project site that has been dedicated to and accepted by a public entity for public use as a functional open space amenity may be included in meeting the functional open space area requirements. Dedications that meet this requirement include, but are not limited to, parks, trail, and detention and retention basins that incorporate Multiple-Use Concepts and Aesthetic Design Guidelines described in 3.6.1.5.D.4.b (Detention and Retention Basin requirements).
 - d. The following FLD projects are exempt from Section 3.6.1.4.D.2.a (Functional Open Space Requirements):
 - 1. An FLD project with 60 lots or fewer ~~L~~located within one-quarter (1/4) of a mile of a City community park of at least fifteen (15) acres, which does not require crossing an arterial roadway to reach the park, ~~and is a FLD project with 60 lots or fewer~~; or,
 - 2. Zoned SR, SH, RX-1 or RX-2.
3. *Configuration and Location of Functional Open Space within an FLD Project.*
- a. *FLD projects 5 acres and less.* Functional open space amenities should be configured as contiguous areas, but may also be incorporated into the design of other elements on the site, such as detention/retention basins and buffers, in order to make those areas functional.
 - b. *FLD projects more than 5 acres.* Functional open space may be divided into smaller areas if they are distributed throughout the project site and conveniently located for residents of the FLD project.
 - c. Functional open space shall be conveniently located to and usable by the maximum number of the residential units on the site.
 - d. To the greatest extent possible, ~~common~~functional open space should not be comprised of remnant areas that are not usable by residents of the FLD project.
 - e. Where the project is located near a public preserve, or can provide connections to open space areas or areas of environmentally or culturally significant features, the open space shall be configured in a manner to preserve this connectivity.
4. *Additional Common Open Space Requirements.*
- a. Natural Undisturbed Open Space (NUOS).
 - 1. NUOS areas include environmentally significant features as identified in the Environmental Resource Zone; Hillside Development Zone; and, Watercourse Amenities, Safety and Habitat zone ordinances; culturally significant features (features eligible for National Register status as identified during the cultural resource assessment process);

designated floodplains (except where channelized); and, other features identified during the FLD site design plan process.

2. NUOS areas shall remain ~~undeveloped~~unimproved and permanently conserved with the following exceptions:

- a. Trails are permitted in NUOS areas and may count toward meeting functional open space requirements.
- b. Infrastructure is permitted in NUOS areas when connectivity of services is required or cannot be achieved elsewhere on the site outside the NUOS area using design techniques that minimize the impact on the NUOS, such as limiting crossings and borings.

b. *Detention and retention basins.*

1. To the greatest degree practicable, detention and retention basins within an FLD shall be designed as functional open space by incorporating the Multiple-Use Concepts and Aesthetic Design Guidelines in Chapter IV of the Stormwater Detention/Retention Manual, and in accordance with Section 3.7.4.3 and Development Standard 10-01.0. Functional open space amenities within detention and retention basins may count toward meeting functional open space requirements.
2. Detention and retention basins shall be:
 - i. located outside the boundaries of a residential lot in a common area;
 - ii. owned and maintained by the homeowners organization or management organization established by the developer; and,
 - iii. located within the perimeter wall, fence, or screening surrounding the FLD project site boundaries, if provided.
3. [SEE ATTACHMENT A COVER SHEET FOR ALTERNATIVES TO THIS REQUIREMENT]Detention and retention basins shall not contain slopes greater than four to one (4:1).

D. *Calculation of Maximum Unit Yield.* The method for calculating residential density as described in Section 3.2.10 (Residential Density Calculation) shall be used in calculating the maximum unit yield of FLD projects.

E. *Flexible Lot Development (FLD) Density Matrix.* FLD projects must comply with the density limits pursuant to the density matrix provided in Section 3.2.3.1.F.

3.6.1.5 Site Specific Development Criteria

A. *Transition Edge Treatment and Privacy Mitigation*

1. *Transition Edge Treatment.* Where a single-family attached or multi-family FLD project is adjacent to existing single-family residential development, the FLD must provide buffering ~~along the affected FLD perimeter~~ in order to preserve the privacy of the existing residential development. Examples of buffering include, but are not limited to, landscaping, a fence, or a wall. The proposed buffering shall be included as conditions on the approved subdivision plat.
2. *Privacy Mitigation*
 - a. The following are required where multistory residences are proposed adjacent to existing single story residential and the existing residences are zoned R-2 or more restrictive:
 - i. Balconies, windows (except for clerestory windows), or any other feature on an upper floor that overlook the rear and side yards of an adjacent residence ~~is~~are prohibited.
 - ii. A Privacy Mitigation Plan is required demonstrating that adequate measures, such as screening, setbacks, building mass, solar access, air circulation, and light access are incorporated into the design of the project to preserve the existing residents' privacy.
 - iii. The Privacy Mitigation Plan must be prepared, processed, and approved in compliance with Chapter 23A-35 and Development Standard 2-10.0.
 - iv. For FLDs 5 acres or less, Privacy Mitigation Plans must be included with the Preliminary Development Plan submittal.
 - v. For FLDs more than 5 acres, Privacy Mitigation Plans must be included with the plat or development plan submittal, whichever is applicable.

B. *Landscaping, Screening and Wall Requirements.*

1. FLD projects must comply with Section 3.7.0 (Landscaping and Screening Requirements) except as otherwise provided in this section.
2. One (1) canopy tree must be provided every forty (40) feet of pedestrian circulation systems, excluding crossings with streets, alleys, and driveways. If providing canopy trees every 40 feet is not achievable, the applicant must:

- a. Provide the equivalent number of trees that would be obtained using the 40-foot increment measure; and,
 - b. Distribute the trees within the FLD project site along pedestrian circulation systems and within functional open space areas.
 3. Landscape plans shall incorporate water-conserving design as defined in Section 3.7.4 and as described in Development Standard 2-06.0.
 4. Water harvesting techniques shall be incorporated as part of the landscape design based on the *Water Harvesting Guidance Manual* prepared for the City of Tucson Transportation Department Stormwater Section.
 5. Mechanical equipment, utility boxes, irrigation equipment and similar elements shall be screened from adjacent streets exterior to the project and from adjacent existing residential development. Screening shall be architecturally integrated with the overall design of the FLD.
 6. If a perimeter wall is proposed along a public right-of-way, it shall be constructed of, or painted with, graffiti-resistant materials. The wall shall incorporate one or more of the following decorative materials:
 - a. tile;
 - b. stone;
 - c. brick;
 - d. adobe;
 - e. a textured material such as stucco or plaster; or,
 - f. metal.
- C. *Perimeter Yards Along FLD Project Site Boundaries.*
1. Perimeter yard width requirements along FLD project site boundaries are based on the zoning classification of the adjoining property, as shown in 3.2.6.4 (Perimeter Yard Width Matrix).
 2. The required street perimeter yard width along FLD project site boundaries shall be in accordance with Section 3.2.6.5, unless special zoning requirements dictate a greater distance or different point of measurement.
- D. *Perimeter Yards on Interior Lots.* Interior lots must provide perimeter yard setbacks as follows:
1. ~~Except for along street yards, t~~The perimeter yards along interior lot lines required by 3.2.6.4 (Perimeter Yard Width Matrix) may be reduced, subject to the limitations in the Building Codes.

2. Along interior street lot lines, street perimeter yards are required, in accordance with Section 3.2.6.5. The street perimeter yards may be administratively reduced by the Development Services Department Director if the Director finds that the reduced setback enhances the architectural design or the vehicular circulation in the FLD and a transportation impact analysis is approved by the City's Traffic Engineering division.
 3. Along parking area access lanes (PAALs), setbacks as required in Development Standard 3-05.2.2.B and Department of Transportation design criteria.
- E. *Site Coverage.* FLD projects must comply with site coverage limits in Section 3.2.3.1.F. Site coverage shall be applied in accordance with Lot Coverage requirements in Section 3.2.9 (Lot Coverage).
- F. *Parking.* Parking must comply with Section 3.3.0 (Motor Vehicle and Bicycle Parking Requirements), Development Standard 3-05 (Vehicle Parking Area Design Criteria), applicable sections of Section 3.7.0 (Landscaping) and Development Standard 2-06 (Landscaping), applicable regulations related to accessibility, and the following criteria:
1. Streets within the FLD site for which on-street parking is proposed must be designed with parking lanes ~~to accommodate the proposed parking that~~ comply with Development Standard 3-01.2.4 (Parking Lanes).
 2. An alley abutting an existing development shall not be used for parking access.
 3. Common parking areas must meet the following requirements:
 - a. No more than sixty (60) parking spaces may be located in any single outdoor parking area.
 - b. Common parking areas must be separated by a minimum of thirty (30) feet utilizing buildings or landscaping.
 - c. The same parking area access lane (PAAL) may provide access to two (2) or more parking areas.
 - d. Curbed areas must provide openings to allow water to flow into landscaped areas and water harvesting basins.
- G. *Circulation and Connectivity.*

1. The right-of-way and pavement widths for internal ways, common parking areas, streets, roads, or other means of vehicular circulation and for surface drainage serving the FLD shall be in conformance with Section 3.3.7, ~~and~~ Development Standard 3-01.0 and 3-05.0.
2. All elements of an FLD, including residential units and recreational amenities, shall be connected by a pedestrian circulation system. ~~The system shall be physically separated from the vehicular circulation system, except where the system intersects a parking area access lane (PAAL) or street.~~
3. Interior pedestrian sidewalks shall connect to sidewalks on abutting streets and to abutting commercial and recreational facilities with adjacent property owner's consent.
4. Bus turn-out lanes and bus waiting shelters must be provided if requested by the City.
5. Barrier Free Access
 - a. For purposes of this section, barrier free access is defined as functional access for semiambulatory and nonambulatory persons.
 - b. Barrier-free access must be provided pursuant to Section 1109.14 (Recreational and sports facilities) of the building code with the following exception:
 - i. FLDs using the Housing for the Elderly maximum development option (Section 3.6.1.2.B.2.b) shall provide barrier free access pursuant to Section 1109.14 (Recreational and sports facilities) of the building code or fifty percent (50%), but not less than one, of each type of functional open space amenity, whichever is greater.
6. Trails that have current or future linkages to other trails, open space areas or recreation areas shall be provided as determined by the City Parks and Recreation Department.
 - a. Trails must be constructed in compliance with the design criteria established for trails by the City of Tucson Parks Department and Pima County Parks Department.
 - b. Hard and soft surface paths, when required, must have an average separation of at least five (5) feet to allow for landscaping that does not interfere with the paths, except where a reduced width is allowed by the City's Parks and Recreation Department.

H. *Terrain and Grading.*

1. For property within the hillside development zone (HDZ) ~~must comply with , sloped areas in excess of 15% with an area greater than or equal to 7,000 square feet shall be delineated and set aside as natural undisturbed open space and designated as common area. See Section 2.8.1.6.C. for additional requirements for FLD projects within the HDZ.~~
2. Areas of the site protected in their natural state by Environmental Resource Zone (ERZ), Watercourse Amenity, Safety and Habitat (WASH) zone, or Native Plant Preservation Ordinance (NPPO) regulations shall be delineated and set aside as natural undisturbed open space as required by these regulations.

3.6.1.6 Individual Lot Development Criteria

A. *Minimum Lot Sizes.* Within an FLD, the lot size permitted in the zoning district may be reduced, with the following exceptions:

1. Lots in the SR and RX-1 zones must contain a minimum of 18,000 square feet.
2. Lots in the RX-2 zone must contain a minimum of 12,000 square feet.
3. All lots developed with a septic ~~tank~~systems must contain a minimum of one (1) acre.

B. *Architectural Variation.*

1. *Purpose.* To provide architectural diversity, visual interest, and to avoid monotony in architectural design by requiring variations in such architectural treatments as color, finished materials, massing and rooflines, orientation of units, garages and porches.
2. *Architectural Variation Plan Required.*
 - a. When applicable, an Architectural Variation Plan (AVP) demonstrating compliance with the requirements of this section must be prepared in accordance with Development Standard 2-10.0.
 - b. The AVP will be processed and considered for approval as required in Chapter 23A-35.4 (Architectural Variation Plan required)
 - c. An AVP must be approved prior to issuance of a building permit.

3. *Garage Placement.*

- a. The requirements of this section apply to projects with twenty (20) or more single-family detached residential units.
- b. No more than fifty (50) percent of detached residential units throughout the FLD shall be designed with garages that protrude from or are flush with the front wall of the living area or front porch of the house ~~and open onto the same street as the main entrance to the unit.~~

4. *Architectural Variation.*

- a. *Applicability.* The requirements of this section apply to projects meeting the following criteria:
 - i. Projects with twenty (20) or more single-family detached residential units except when residential units are on lots larger than ten thousand (10,000) square feet or, where dwelling units are separated by thirty (30) feet or more.
 - ii. Elevations of single family detached units abutting a public street designated as a collector or arterial street in the Major Streets and Routes Plan; or, a private or public street designed and/or designated as a residential collector street.
- b. *Requirement.*
 - i. The same architectural elevation shall not be repeated more often than every fourth lot.
 - ii. Architectural variation may be accomplished by incorporating a minimum of two of the following design features into the affected elevations: different building footprint orientation, building elevation, garage placement, roof type, ornamentation, or architectural style. The applicant must work with the City's Design Examiner to ensure that adequate variation is achieved.

C. *Solar Access and Passive Solar.*

1. *Solar Access.* Dwelling units should be configured to allow solar access to adjacent structures.
2. *Passive Solar.* FLD projects should incorporate passive solar design when practicable.

3.6.1.7 Management of Common Properties

The subdivision plat will provide for all common areas through the homeowner's association or joint and several liability of all property owners.

3.6.1.8 FLD Phasing Requirements

- A. An FLD may be phased for construction and development; however, the FLD shall be considered a single project for purposes of allowable densities, open space, common areas, hydrology, and grading provided that all of the following conditions are met.
- B. The entire FLD must be platted as one (1) project, as setbacks and other FLD requirements are based on the entire FLD site. If the FLD is platted by phase, then each phase must comply with requirements as a separate project, including the following.
 - 1. Homeowners' association documentation must allow for the annexation of future phases if designed to work as one (1) project.
 - 2. If access to future phases is designed to be through the phase being platted, right-of-way easements or other acceptable legal instruments shall be provided on/with the plats and homeowners' association documents.
- C. If the FLD contains common areas, the entire FLD shall be subject to an overall set of comprehensive conditions, covenants, and restrictions which establish the character of the development and create an overall homeowner's association. If the documentation for the overall homeowners' association does not indicate responsibility for each phase within the FLD, then the excluded phase shall have its own homeowners' association which will be responsible for owning and maintaining any common area, open space, natural area, or recreation area within the phase.
- D. The developer must submit a document to show how the project amenities and site improvements will be developed in proportion to the number of residential units developed. The site improvements must be designed to function independently for each phase and as each new phase is added.

Such project amenities and site improvements shall be located adjacent to or within developed or developing phases and on property that is abutting or physically connected to the residential development in order to provide access between the amenity and the development it serves.

- E. At no time during the construction of the FLD shall the number of constructed residential units per acre of developed land exceed the overall density for the land area in each phase and as approved by the recorded plat.

SECTION 4 Article 6, Division 2, Sec. 6.2.4-D, is hereby amended to delete the definition of “Developable Area.”

**ARTICLE VI DEFINITIONS
DIVISION 2. LISTING OF WORDS & TERMS**

SECTION 5. Article VI, Division 2, Sec. 6.2.3.C, Sec. 6.3.6.F, Sec. 6.2.14.N and Sec. 6.2.15.O, 6.2.16.P, 6.2.19.S, and 6.2.20.T are hereby amended to add new definitions, to read as follows:

6.2.3 DEFINITIONS – C

Cluster or Clustering. A site planning technique that concentrates buildings and structures in specific areas on a lot, site, or parcel to allow the remaining land to be used for recreation, open space, or preservation of features or structures with environmental, historical, or other significance.

Common area. Those portions of a site not within the boundaries of a private lot that are set aside in perpetuity as commonly owned and maintained by the residents of a development through a homeowners organization, and designated for the benefit of and enjoyment by all the residents of the development. Common area is comprised of open space, functional open space and areas for infrastructure such as streets, and drainage easements.

6.2.6 DEFINITIONS – F

Flexible Lot Development. The techniques used to concentrate buildings on a site by allowing for reductions in lot size and flexibility of lot shape dimension and location with the resultant open space being devoted by deed restrictions for one or more uses, such as natural undisturbed open space and passive and active recreation areas.

Functional open space. See Open space, functional.

6.2.14 DEFINITIONS – N

Natural undisturbed open space. See Open space, natural undisturbed.

Non-motorized recreational trail. An easement used by pedestrians, equestrians, bicyclists (including electric if local regulations permit) and wheelchairs (including electric). Motorized maintenance vehicles are permitted on trails for maintenance purposes only.

6.2.15 DEFINITIONS – O

Open space, functional. Functional open space is a designed element of the development that is functionally described and planned as an amenity for the direct benefit of and enjoyment by the residents of a development. Examples of functional open space include nature trails; exercise trails; open playgrounds, such as baseball fields and multi-use recreational areas; picnic areas; and facilities, such as swimming pools, tennis courts; and golf courses.

Open space, natural undisturbed. Any area of land that is unimproved and not occupied by structures or man-made impervious surfaces that is set aside, dedicated or reserved in perpetuity as a preservation conservation area for public or private enjoyment. NUOS areas include environmentally significant features as identified in the Environmental Resource Zone; Hillside Development Zone; and, Watercourse Amenities, Safety and Habitat zone ordinances; culturally significant features (features eligible for National Register status as identified during the cultural resource assessment process); designated floodplains (except where channelized); and, other features identified during the FLD site design plan process. –A pedestrian or non-motorized access trail may be located in a natural undisturbed open space. Rights-of-ways and utilities are allowed to cross when the impact of crossing is minimized or is at right angles to the natural undisturbed open space.

6.2.15 DEFINITIONS – P

Pedestrian path. A surfaced walkway, usually of concrete or asphalt, for use by pedestrians.

Project amenities. Aesthetic or other characteristics of a development that increase its desirability to a community or its marketability to the public. Project amenities include, but are not limited to, open space, natural undisturbed areas, landscaping, common areas, and recreation facilities.

6.2.19 DEFINITIONS – S

Site coverage. The aggregated area occupied by buildings, storage areas, and vehicular use areas within a project site.

Site improvements. Any building, structure, or other object constituting a physical addition to the real property. Site improvements include, but are not limited to, streets, curbs, sidewalks, parking areas, trails, and utilities.

~~6.2.20 DEFINITIONS – T~~

~~Trail. A way designed for and used by pedestrians, cyclists using non-motorized bicycles, and equestrians.~~

Section 6 All references to “Residential Cluster Project (RCP)” or “RCP” in the LUC, Development Standards, Planning Documents, and in any and all other City plans and

regulations are hereby changed to refer to the “Flexible Lot Development (FLD)” or “FLD” option, as appropriate.

Draft Amendments to Chapter 23A-35

Chapter 23A-35 Flexible Lot Development (FLD)

The FLD is a development alternative permitted by the Land Use Code (LUC), Chapter 23 of the Tucson Code, in various zoning districts. While the development designator requirements, such as density, building height, setbacks, and lot coverage, are provided in each zone, specific provisions for the design and development of an FLD are found in Section 3.6.1 of the LUC and in Development Standard 2-10.0.

1. *Preliminary Development Plan required.*

- A. FLDs 5 acres or less must prepare, process, and have a Preliminary Development Plan (PDP) approved prior to approval of a subdivision plat or development plan.
- B. PDPs must be prepared in compliance with Development Standard 2-10..
- C. PDPs shall be processed using the Zoning Examiner Full Notice Procedure, Development Compliance Code, Section 23A-53.

2. *Subdivision Plat required.*

- A. Except as provided in 23A-35.3 (Development Plan), all FLDs must prepare, process, and have a tentative and final plat approved prior to issuance of a building permit.
- B. Subdivision plats must be prepared in compliance with Development Standard 2-10.0.
- C. Subdivision plats shall be processed in compliance with Section 23A-33.1.

3. *Development Plan required.*

- A. When a plat is not required, FLDs must prepare, process, and have a development plan approved prior to issuance of a building permit.
- B. Development plans must be prepared in compliance with Development Standard 2-10.0 and processed in compliance with Chapter 23A-34.

4. *Architectural Variation Plan required.*

- A. When required by Section 3.6.1.6.B (Architectural Variation) of the LUC, an Architectural Variation Plan (AVP) must be prepared, processed, and approved prior to issuance of a building permit.
- B. AVPs must be prepared in compliance with Development Standard 2-10.0.

- C. An AVP must be included with the PDP, subdivision plat, development plan, or building permit submittal.
- D. The Design Examiner will review AVPs for compliance with Section 3.6.1.6.B and forward his or her findings and recommendation in writing to the Director of the Department of Urban Planning and Design for consideration of approval.
- E. The director's decision may be appealed the Design Review Board.
- F. Conditions of the approved AVP must be included as notes on the approved PDP, plat or development plan, whichever applies, and the building plan.

5. *Privacy Mitigation Plan required.*

- A. When required by Section 3.6.1.6.B (Architectural Variation) of the LUC Section 3.6.1.5.A.2 (Privacy Mitigation) of the LUC, a Privacy Mitigation Plan (PMP) must be prepared, processed, and approved prior to issuance of a building permit.
- B. PMPs must be prepared in compliance with Development Standard 2-10.0.
- C. For FLDs 5 acres or less, PMPs must be included with submittal of the Preliminary Development Plan.
- D. For FLDs more than 5 acres, PMPs must be included with the plat or development plan, whichever is applicable.
- E. The Design Examiner will review the PMP for compliance with Section 3.6.1.5.A.2 and forward his or her findings and recommendation in writing to the Director of the Department of Urban Planning and Design for consideration of approval.
- F. The director's decision may be appealed to the Design Review Board.
- G. Conditions of the approved PMP, including a description of the required mitigation and for which units the mitigation applies, must be included as notes on the PDP, plat, or development plan, whichever applies, and the building plan.

6. *Notice of Application*

- A. Public notice that a conceptual plan for a FLD 5 acres or less, tentative plat or privacy mitigation plan related to a FLD application has been filed and accepted for review shall be sent within five (5) days of acceptance of the application.
- B. The notice shall include pertinent information about the proposed project, such as name; project location; case number; type of development; site size;

residential density; number of stories; maximum density bonus (if applicable); amenities; where the plat can be viewed by the public; and the address and telephone number of the Development Services Department (DSD). Such notice shall contain a sentence indicating that any person may request further notification of actions concerning the FLD.

C. A minimum period of twenty (20) working days from the date the notice is sent will be provided for response.

D. The notice shall be sent to the following:

1. All owners of property located within three hundred (300) feet of the FLD site (any public rights-of-way abutting the FLD site are excluded from the measurement).
2. At least two (2) designated representatives of any neighborhood and homeowners' associations registered with the city and located within one (1) mile of the FLD site.
3. Any other person determined by the Development Services Department (DSD) director to be affected by the proposed FLD.

Draft Amendment Creating the Design Examiner position

ARTICLE V. ADMINISTRATION

DIVISION 1. POWERS AND DUTIES

* * *

5.1.12 Design Examiner (DE). The Design Examiner (DE) is established to review proposed buildings, structures, landscaping, architectural features, of proposed subdivisions, development plans, and site plans as set forth in the *Land Use Code (LUC)*, Sec. 23 of the Tucson Code and in the Development Compliance Code, Sec. 23A of the Tucson Code.

5.1.12.1 Appointment and Qualifications

- A. The City Manager shall recommend a candidate(s) for the position of DE. The Mayor and Council shall appoint the DE.
- B. *Qualifications.* A DE shall be one of the following:
 - 1. a registered architect; or,
 - 2. a registered landscape architect

5.1.12.2 Powers and Duties.

- A. *Flexible Lot Development (FLD) Projects.* The DE shall review FLD projects for compliance with, but not limited to:
 - 1. Section 3.6.1.4.D (Functional Open Space);
 - 2. Section 3.6.1.5.A.1 (Transition Edge Treatment);
 - 3. Section 3.6.1.5.A.2 (Privacy Mitigation);
 - 4. Section 3.6.1.5.D.2 (Modifications to Street Perimeter Yard Setbacks); and,
 - 5. Section 3.6.1.6.B (Architectural Variation).
- B. The DE will forward a recommendation along with his or her findings in writing to the Director of the Development Services Department. The Director shall take into account the recommendations of the DE in the considering approval of the FLD project proposal.

- D. *Findings for Privacy Mitigation Plans.* The DE may recommend a project if it meets the following findings:
 - 1. Will not be detrimental to public health and safety; and
 - 2. Will not impair an adequate supply of light and air to adjoining properties; and
 - 3. Will not create a nuisance to surrounding properties.
- E. *Conditions.* The DE may recommend conditions on the approval of an FLD to ensure that the design of the FLD mitigates the impact of the FLD and provides suitable transitions to the adjoining existing residential developments.
- F. *Other Responsibilities.* The DE shall perform such other functions as may be required by the *Land Use Code (LUC)*.

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